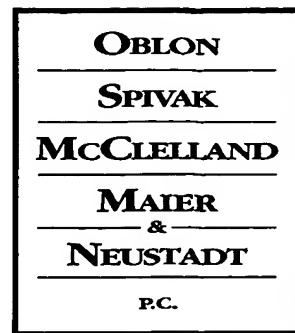




Docket No.: 240900US2S

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

RE: Application Serial No.: 10/626,592
Applicants: Takeshi MATSUNAGA, et al.
Filing Date: July 25, 2003
For: SEMICONDUCTOR DEVICE HAVING CAPACITOR
FORMED IN MULTILAYER WIRING STRUCTURE
Group Art Unit: 2815
Examiner: Ortiz, E.

SIR:

Attached hereto for filing are the following papers:

PROVISIONAL ELECTION OF SPECIES

Our check in the amount of -0- is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Eckhard H. Kuesters

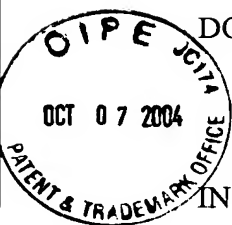
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DOCKET NO: 240900US2S

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF

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TAKESHI MATSUNAGA, ET AL.

: EXAMINER: ORTIZ, E.

SERIAL NO: 10/626,592

:

FILED: JULY 25, 2003

: GROUP ART UNIT: 2815

FOR: SEMICONDUCTOR DEVICE
HAVING CAPACITOR FORMED IN
MULTILAYER WIRING STRUCTURE

:

PROVISIONAL ELECTION OF SPECIES

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Election of Species requirement mailed on September 7, 2004, applicants elect, with traverse, the invention of Species I, Figure 1. Claims 1-10 and 13 are readable on the elected species.

Applicants traverse the outstanding Election of Species requirement on the grounds that it has not been established that it would be an undue burden to examine each of the noted inventions and claims together.

Under M.P.E.P. § 803, an Election is not proper if a search and examination can be made without a serious burden on the Examiner; and the outstanding Election of Species requirement has not established that examining each of the currently-pending claims together would result in an undue burden.

MPEP § 803 specifically states:

Restriction – When Proper

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

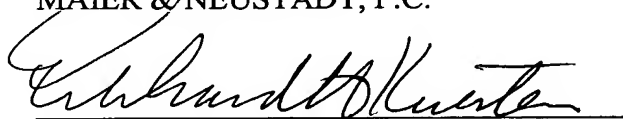
GUIDELINES

[A] serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02.

The Election of Species requirement has not established, by appropriate explanation, that examining each of the claims would result in an undue burden. Accordingly, each of the noted inventions and claims should be examined on their merits.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



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